

Transitional Compensation for Abuse Victims

by CPT Jerrod Fussnecker, in concert with "The Clash"

"Should I Stay or Should I Go Now?"

"I would never let that happen to me. If my spouse hit me, I would leave right away for sure." This statement is a common response when discussing domestic violence. But if this attitude is so common, why does experience show that it is in fact common for victims to stay in abusive relationships?

"If I go there will be trouble. And if I stay it will be double."

"If I leave, my spouse will be kicked out of the military and I'll have no income to support myself and my children. If I stay, my children and I will continue to be abused." This is the unfortunate Catch-22 of most domestic violence victims. The Army places great emphasis on respecting and providing for family members who sacrifice in support of the Army mission. But what options are available to family members who are abused by their military spouses? If a victim reports the abuse, a Soldier is likely to face court-martial or administrative separation resulting in the victim suffering further due to the family's loss of income. Unfortunately, financial dependence on the spouses who abuse them is one of the most common reasons spouses stay in abusive relationships.

"If you don't want me, set me free."

To help victims set themselves free from patterns of abuse and financial dependence, Congress passed legislation in 1994 to provide battered spouses the support they need to report their abuse and begin a new life independent from their abusers. The Army has implemented the law through its transitional compensation program (see Army Regulation 608-1, paragraph 4-12).

Transitional compensation authorizes temporary monetary payments and benefits for families in which the active-duty Soldier has (1) been separated from active duty administratively or as a result of a court-martial conviction for abusing the family members, or (2) received a court-martial sentence of forfeiture of all pay and allowances for abusing the family members.

Abuse of family members includes domestic violence or sexual abuse. Spouses, former spouses, and children residing in the home at the time of the abuse may qualify for transitional compensation for up to 36 months. Payments cease when a spouse receiving payments remarries or the abusive Soldier resumes residing in the home with the abused spouse or children.

Currently, spouses approved for transitional compensation receive \$1,154 per month and \$286 for each eligible child. The payment is \$488 per eligible child if there is no spouse payment. During the entitlement period, beneficiaries may also retain family member identification cards and may be eligible for commissary and exchange privileges, TRICARE medical benefits, and dental services, depending on whether they are in CONUS or overseas. While the temporary payments are intended to assist victims and their children in the wake of losing the income they relied upon from a military spouse, applications can be submitted as long as the abuse that resulted in the separation occurred after November 29, 1993.

"You gotta let me know."

Victims must know that help is available. The installation ACS Family Advocacy Program Victim Advocate can help victims apply for transitional compensation benefits and the Staff Judge Advocate's Victim Witness Liaison can help obtain the required documentation for the application. Check the "Services Locator" at <https://www.myarmyonesource.com> to identify the transitional compensation POC at your installation.

[continued on page 5...]



Transitional Compensation (continued)

In order to prevent and mitigate the effects of domestic abuse, leaders must also know about the transitional compensation program and inform their Soldiers, civilians, and family members about the program through their organizational websites, newsletters, FRG meetings, and other appropriate venues. When initiating separation of a Soldier for domestic abuse, the commander should be sure to annotate domestic abuse as a basis for separation in the separation notification memorandum to the Soldier. The abused dependent will later use this memorandum to substantiate the application for transitional compensation. Command teams should consult their local trial counsel for more information on transitional compensation.

"I'll be here 'til the end of time."

Anyone with questions concerning transitional compensation should feel free to call me at DSN 385-3236 or Civilian 0621-730-3236, or e-mail me at jerrod.b.fussnecker.mil@mail.mil.

Individual Logistic Support for Family Members

by Mark Christensen

At the Kaiserslautern Legal Services Center we frequently get questions from folks on how to obtain individual logistic support (ILS) for people who are part of the family, or who are treated like part of the family. Because ILS generally involves freedom from host nation taxes, the categories of individuals eligible for ILS are strictly construed and enforced by US Forces and German host nation authorities. Eligibility for ILS is based on the individual's personal status under NATO Status of Forces Agreement (SOFA) and its German Supplement. The basic rules pertaining to ILS determinations are found in AER 600-77 and AER 600-700.

Spouses and Sponsors' Children. Under the NATO SOFA, spouses and the sponsor's children residing with him/her and dependent on the sponsor for support are generally eligible for SOFA status. As a first step, the newly-married or new-parent Soldier or civilian sponsor should enroll the family members in the Defense Eligibility Enrollment Reporting System (DEERS). Enrollment requires proof of the relationship, often done with marriage and birth certificates. For children placed into the home, a non-temporary court order of guardianship or adoption is necessary.



For most spouses and children, DEERS enrollment and issuance of an ID card is followed by a short visit to the SOFA stamp issuing office. That office will check the DEERS enrollment, and will check to ensure that the spouse/children are not from a non-EU country that requires a German entry visa. Once those checks are conducted, the SOFA stamp (normally a separate laminated card) is issued. With their SOFA stamp/card to prove their SOFA status, the spouse and children are able to legally shop in the Exchange and Commissary and use all the other ILS services. Spouses or children who are not U.S. citizens or resident aliens, and come from certain non-EU countries (see DOD 4500.54-G <https://www.fcq.pentagon.mil/fcq.cfm>), need to comply with German visa requirements, and will only be issued a SOFA stamp/card (and thus be eligible for ILS) after complying with the documentation and approval requirements in AER 600-77.

Parents and Other Family Members. The NATO SOFA does not provide for any SOFA status (so no ILS) for parents and family members other than the spouse and children of the sponsor. The German Government has been very generous in this regard, and established a special category of individuals to whom they have granted SOFA status – and thus granted ILS. The treaty term is "close relative." Sometimes the individuals are called "members of household." Those individuals can include a grandchild, a parent, a grandparent, or a brother or sister – among others. The close relative must be a U.S. citizen, or a lawful permanent resident of the United States, or an EU member-country citizen or national, must be residing with the sponsor, and must be dependent upon the sponsor financially or for reasons of health.

It is important to remember that ILS is a strictly construed set of benefits, and only available to individuals who have been granted SOFA status and who have a SOFA status stamp/card.

For more information about ILS, or to set up an appointment to discuss dependency or member of household status with a Legal Assistance Attorney, call DSN 483-8848 or Civilian 0631-411-8848.